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Attorneys for Defendant Apple Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE HIGH-TECH EMPLOYEE
ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

ALL ACTIONS

Master Docket No. 11-CV-2509-LHK

**DECLARATION OF LESLIE FITHIAN
IN SUPPORT OF DEFENDANTS' JOINT
RESPONSE TO PLAINTIFFS'
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL FILINGS RELATED TO
PLAINTIFFS' OPPOSITION BRIEFS AND
FILINGS RE DKTS. 554, 556, 557, 559, 560,
561, 564, 570**

1 I, Leslie Fithian, declare as follows:

2 1. I am Associate General Counsel at Apple Inc. ("Apple"). I have been employed in
3 the Legal Department at Apple since 1994. Through my work at Apple, I have become familiar
4 with Apple's negotiations regarding its collaborative partnerships with outside companies. I
5 make this declaration based on my own personal knowledge and experience at Apple. If called to
6 testify as a witness, I could and would do so competently.

7 2. I submit this declaration in support of Defendants' Joint Response to Plaintiffs'
8 Administrative Motion to File Under Seal Filings Related to Plaintiffs' Opposition Briefs and
9 Filings Re Dkts. 554, 556, 557, 559, 560, 561, 564, 570 ("Defendants' Response"), and in support
10 of Apple's request that certain materials lodged under seal with Plaintiffs' motion be sealed
11 pursuant to Civil Local Rule 79-5(d). In particular, Apple seeks to maintain under seal certain
12 redacted portions of the following agreements with Adobe, Google, and Intel, which are attached
13 to the Declaration of Dean M. Harvey in Support of Plaintiffs' Opposition Briefs Re Dkts. 554,
14 556, 557, 559, 560, 561, 564, 570 ("Harvey Decl.") or Declaration of Lisa J. Cisneros in Support
15 of Plaintiffs' Opposition Briefs Re Dkts. 554, 556, 557, 559, 560, 561, 564, 570 ("Cisneros
16 Decl."), as reflected in the proposed redacted and highlighted versions of these agreements filed
17 with Defendants' Response:

- 18 • Harvey Decl. Ex. 48 (ADOBE_110060), Source Code Evaluation and Assistance
19 Agreement between Apple and Adobe;
- 20 • Harvey Decl. Ex. 51 (ADOBE_110308), Master Agreement for Mutual Disclosure
21 of Information, Amendments One and Two to Master Agreement for Mutual
22 Disclosure of Information, First and Second Addenda to Master Agreement for
23 Mutual Disclosure of Information, and attached Exhibits and Appendices between
24 Apple and Adobe;
- 25 • Harvey Decl. Ex. 52 (ADOBE_110368), Agreement for Disclosure of Adobe
26 Information and Assignment between Apple and Adobe;
- 27 • Harvey Decl. Ex. 53 (ADOBE_110398), Master Agreement for Mutual Disclosure
28 of Information and attached Exhibits and Appendices between Apple and Adobe;

- 1 • Harvey Decl. Ex. 54 (ADOBE_110454), Joint Development and License
- 2 Agreement and attached Exhibits between Apple and Adobe;
- 3 • Harvey Decl. Ex. 69 (231APPLE116655 - 231APPLE116801), Confidential
- 4 Information Transmittal Record for Restricted Secret Information (“RS-CITR”),
- 5 Amendment #1 to Exhibit 5 of Key Terms & Principles, and Master Development
- 6 License Agreement and attached Exhibits between Apple and Intel;
- 7 • Harvey Decl. Ex. 69 (231APPLE131828 - 231APPLE125054), Drafts of
- 8 Amendment Five to Information Services Agreement, Amendment Three to
- 9 License Agreement, and Amendment One to License Agreement between Apple
- 10 and Google;
- 11 • Harvey Decl. Ex. 70 (231APPLE123280), Mutual Non-Disclosure Agreement
- 12 between Apple and Google;
- 13 • Harvey Decl. Ex. 71 (231APPLE124988), License Agreement and attached
- 14 Exhibits between Apple and Google;
- 15 • Harvey Decl. Ex. 72 (231APPLE130883), License Agreement and attached
- 16 Exhibits between Apple and Google;
- 17 • Harvey Decl. Ex. 73 (231APPLE131137), My Location Protocol Terms of Service
- 18 between Apple and Google;
- 19 • Harvey Decl. Ex. 74 (231APPLE132589), Information Services Agreement and
- 20 attached Exhibits between Apple and Google;
- 21 • Harvey Decl. Ex. 134 (GOOG-HIGH-TECH-00625486), Information Services
- 22 Agreement and attached Exhibits between Apple and Google;
- 23 • Harvey Decl. Ex. 135 (GOOG-HIGH-TECH-00625496), Amendment One to
- 24 Information Services Agreement between Apple and Google;
- 25 • Harvey Decl. Ex. 136 (GOOG-HIGH-TECH-00625509), Product Integration
- 26 Agreement and attached Exhibits between Apple and Google;
- 27 • Harvey Decl. Ex. 137 (GOOG-HIGH-TECH-00625532), Google Mail License
- 28 Agreement and attached Exhibits between Apple and Google;

- 1 • Harvey Decl. Ex. 138 (GOOG-HIGH-TECH-00625631), Contact Sync License
- 2 Agreement between Apple and Google;
- 3 • Harvey Decl. Ex. 139 (GOOG-HIGH-TECH-00625733), Cooperative Marketing
- 4 and Services Agreement and attached Exhibits between Apple and Google;
- 5 • Cisneros Decl. Ex. 2249 (231APPLE132408), e-mail discussing and attaching
- 6 Apple Computer, Inc. Confidentiality Agreement (Mutual) between Apple and
- 7 Google; and
- 8 • Cisneros Decl. Ex. 2262 (231APPLE131775), e-mail discussing and negotiating
- 9 the terms of the iPhone SDK Developer Terms between Apple and Google.

10 3. I have reviewed the redacted portions of these documents, and I believe there are
 11 compelling reasons to maintain them under seal. These portions contain and reflect information
 12 designated by Apple as CONFIDENTIAL – ATTORNEYS’ EYES ONLY under the Stipulated
 13 Protective Order entered by the Court on January 24, 2012 (Dkt. 107).

14 4. Apple considers the terms and conditions of agreements such as these and the
 15 details regarding their drafting and negotiation to be highly confidential, proprietary, and
 16 competitively sensitive. Apple treats this information as highly confidential and sensitive and
 17 does not disclose it publicly, to third parties, or even to most Apple employees. Apple limits the
 18 disclosure of these agreements and the details regarding them to employees who require this
 19 information to carry out their job duties. Apple derives an economic benefit from maintaining the
 20 confidentiality of this information and would suffer serious competitive harm if it were disclosed
 21 because Apple’s competitors, potential business partners, and other third parties would gain
 22 detailed information and insight into its confidential business strategies and partnerships,
 23 including details about contractual terms and conditions that Apple uses with certain business
 24 partners. Public disclosure of this information would put Apple at a significant disadvantage with
 25 respect to its business dealings and partnerships.

26 5. Because the redacted portions of these documents cannot be publicly disclosed
 27 without causing it serious harm, Apple requests that they be maintained under seal and redacted
 28 from the publicly-filed versions of the documents.

1 I declare under penalty of perjury under the laws of the United States that the above is true
2 and correct.

3 Executed on February 21, 2014, in Sunnyvale, California.

4
5 By: /s/ Leslie Fithian
6 Leslie Fithian

7
8 **ATTESTATION**

9 Pursuant to Civil Local Rule 5-1, I attest that concurrence in the filing of this document
10 has been obtained from its signatory.

11 Dated: February 21, 2014 By: /s/ Christina Brown
12 Christina Brown